BILL NO. S-84-11-16

SPECIAL ORDINANCE NO. S- 154-84

AN ORDINANCE approving a Contract between the City of Fort Wayne by and through its Board of Public Works and Safety and Earth Construction, Inc. for Res. #892-84 - Seddlemeyer Sanitary Sewer.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The annexed Contract, made a part hereof, between the City of Fort Wayne, by and through its Board of Public Works and Safety and Earth Construction, Inc., for Res. #892-84 - Seddlemeyer Sanitary Sewer, is hereby ratified, and affirmed and approved in all respects. The work under said Contract requires:

the installation of an 8" sewer on Seddlemeyer Avenue from Gary Street to Old Decatur Road;

the Contract price is Seven Thousand Nine Hundred Seventy-Three and No/100 Dollars ($7,973.00).

SECTION 2. Prior Approval was received from Common Council with respect to this Contract on October 25, 1984. Two (2) copies of the Contract attached hereto are on file with the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Henry, seconded by Geo Dunten, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____.M.,E.S.

DATE: 11-13-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Redd, and duly adopted, placed on its passage. PASSED / (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
HENRY	✓				
REDD	✓				
SCHMIDT	✓				
STIER	✓				
TALARICO					

DATE: 11-27-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~) (SPECIAL) (~~ZONING MAP~~) ORDINANCE (~~RESOLUTION~~) NO. S-154-84 on the 27th day of November, 19 84,

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Ray A. Eberly
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of November, 19 84, at the hour of 11:30 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of November, 19 84, at the hour of 11 00 o'clock A.M.,E.S.T.

WIN MOSES, JR., MAYOR

10-31-84

CONTRACT NO. 892-1984

BOARD ORDER NO. 15-84

THIS CONTRACT made and entered into in triplicate this 31 day of October, 1984, by and between EARTH CONSTRUCTION, INC. hereinafter called CONTRACTOR, and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works & Safety, herein called OWNER,

WITNESSETH, that the Contractor and the Owner for the consideration hereinafter named, agree as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of the following:

"SEDDLEMEYER AVENUE SANITARY SEWER"

all according to the Fort Wayne Pollution Control Engineering Department Drawing No. SY-11131, Sheets 1-2, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of $7,973.00. In event the amount of work is increased or decreased by OWNER, the contract sum shall be increased or decreased according to the lump sum price schedule set forth in the Contractor's Proposal.

1.	8" Sewer Pipe City of Fort Wayne Specifications	Five Thousand Three Forty-One and no/100	$ 5,341.00
2.	City of Fort Wayne Typoe I-A Manhole	Nine Hundred and no/100	$ 900.00
3.	6" T or WYE With Tapping Unit Including Permit	Four Hundred Ninety Two and no/100	$ 492.00
4.	Drop Connection	Four Hundred Eighty and no/100	$ 480.00
5.	Seed and 2" Mulch	Seven Hundred Sixty and no/100	$ 760.00

ARTICLE 3. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided herein as follows: Monthly progress payments will be made by Owner upon submission of a statement of quantities of work completed and/or materials supplied to the jobsite as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments will be paid by Owner to Contractor.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the "Owner" to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that contractor shall first furnish "owner," if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of State of Indiana and Ordinances of City of Fort Wayne.
Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Cointractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation Acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bounded by Section 15-13 (as amended) of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (M/FER/6 - M/FER/8)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Statutes of Indiana and Ordinances of City of Fort Wayne, attached hereto and made a part hereof. (WR/1)

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

A. Advertisement for Bids, for Contract No. 892-1984
B. Instructions to Bidders for Contract No. 892-1984
C. Contractor's Proposal Dated .
D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No.SY-11131, Sheets 1-2.
E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers adopted July 23, 1980, and addenda thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
F. Workmen's Compensation Act Statutes of State of Indiana and Ordinances of City of Fort Wayne
G. Non-Discrimination of Labor General Ordinance No. G-34-78 (as amended).
H. Prevailing wage scale
I. Performance Bond
J. Labor and Material Payment bond
K. Comprehensive Liability Insurance Coverage
L. Application for Cut Permit
M. Escrow Agreement
N. Notice of Award
O. Notice to Proceed
P. Change Order
Q. Notice of Final Acceptance
R. Special Provisions

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall warrant all materials, labor and equipment furnished and performed for a period of One (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage. Insurance in force issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified in the within contract in consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

By: Michael C Evertson
Title: Michael C. Evertson, President

By: _____
Title: _____

CITY OF FORT WAYNE, INDIANA

By: _____
Win Moses, Jr., Mayor

ATTEST:

Helen Gochenour
Helen Gochenour, clerk

BOARD OF PUBLIC WORKS and SAFETY

_____
David J. Kiester, Director

_____
Cosette R. Simon, Director

_____
Lawrence D. Consalvos, Director

APPROVED as to form and legality:

R J Snouffer
Richard I. Snouffer, Associate
City Attorney ATTORNEY

APPROVED by the Common Council of the City of Fort Wayne this ____day of _____ 1984.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that

Earth Construction, Inc.
(Name of Contractor)

3333 Engle Road, Fort Wayne, IN 46809
(Address of Contractor)

a "CORPORATION" herein-
(Corporation, Partnership, Individual)

after called Principal, and RELIANCE INSURANCE COMPANY
(name of Surety)

4 Penn Center Plaza, Philadelphia, PA 19103
(Address of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the penal sum of Seven Thousand Nine Hundred SEventy-Three and no/100 ($ 7,933.00) Dollars (value of work) for the payment whereof well and truly to be made, the principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally firmly by those present.

The condition of the foregoing obligation is such that:

WHEREAS, the principal entered into certain contract with the City, dated the 31 day of October, 1984, for construction of:

"SEDDLEMEYER SANITARY SEWER EXTENSION"

Contract No. 892-1984

all according to Fort Wayne Water Pollution Control Engineering Department Drawing No.,SY-11131, Sheet 1 - 2, and special provisions and according to the City of Fort Wayne's Specifications and Standard Drawings and Addenda, adopted 23 July 1980, and,

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and,

WHEREAS, no final settlement between the City and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in three (number) counterparts, each one of which shall be deemed an original, this 30th day of October, 1984.

ATTEST:

Philip D. Shockney

Principal Secretary
Philip D. Shockney
[SEAL]

Cynthia A. Evertson

Witness as to Principal
Cynthia A. Evertson, Vice-President
4724 Imperial Park Drive
Address

Fort Wayne, IN 46815

EARTH CONSTRUCTION, INC.
Principal

By: Michael C. Evertson
Michael C. Evertson, President

3333 Engle Road
Address

Fort Wayne, IN 46809

RELIANCE INSURANCE COMPANY
Surety

ATTEST:

Surety's Secretary

[SEAL]

Susan M. Heim

Witness as to Surety

1721 Magnavox Way
Address

Fort Wayne, IN 46801

BY: Fred L. Tagtmeyer
Attorney-in-Fact Fred L. Tagtmeyer

1721 Magnavox Way
Address

Fort Wayne, IN 46801

NOTE: Date of Bond must not be prior to date of Contract
If Contractor is partnership, all partners should execute bond.

Contract No.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

EARTH CONSTRUCTION, INC.

(Name of Contractor)

3333 Engle Road, Fort Wayne, IN 46809

(Address of Contractor)

a Corporation hereinafter called Principal and RELIANCE INSURANCE COMPANY, 4 Penn Center Plaza, Philadelphia, PA 19103

corporation, partnership or individual

Name of Surety

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of Seven Thousand Nine Hundred Seventy-Three and no/100 ($) Dollars (value of work) for the payment whereof well and truly to be made, the Principal and the Surety bind themsleves their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 31 day of October 1984, for the construction of:

"Seddlemeyer Sanitary Sewer Extension Project"

all according to Fort Wayne Water Pollution Control Engineering Department Drawing No.SY 11131, Sheet 1 through 2, and special provisions, and according to the City of Fort Wayne's Specifications and Standard Drawings and Addenda, adopted 23 July 1980.

WHEREAS, said Surety for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and,

WHEREAS, no final settlement between the Owner and the contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery,

equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed three counterparts, each ono
number
of which shall be deemed an original, this 30th day of October, 1984.

ATTEST:

Philip D. Shockney

Principal Secretary
Philip D. Shockney
[SEAL]

EARTH CONSTRUCTION, INC.
Principal

By Michael C. Evertson
Michael C. Evertson, President
3333 Engle Road, Fort Wayne, IN 46809
Address

Cynthia A. Evertson

Witness as to Principal
Cynthia A. Evertson, Vice-President
4724 Imperial Park Drive

Fort Wayne, IN 46815

RELIANCE INSURANCE COMPANY
Surety

BY: Fred L. Tagtmeyer
Attorney-in-Fact Fred L. Tagtmeyer

ATTEST:

Surety Secretary

[SEAL]

Susan M. Kreimer

Witness as to Surety

1721 Magnavox Way
Address

Fort Wayne, IN 46801

1721 Magnavox Way
Address

Fort Wayne, IN 46801

NOTE: Date of Bond must no be prior to date of Contract
If contractor is partnership, all partners should execute bond.

BILL NO. S-84-11-16

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN ORDINANCE approving a Contract between the City of Fort Wayne by and through its Board of Public Works and Safety and Earth Construction, Inc. for Res. #892-84 - Seddlemeyer Sanitary Sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

THOMAS C. HENRY, CHAIRMAN

MARK E. GiaQUINTA, VICE CHAIRMAN

CHARLES B. REDD

JAMES S. STIER

DONALD J. SCHMIDT

CONCURRED IN 11-27-84
SANDRA E. KENNEDY, CITY CLERK

TITLE OF ORDINANCE Contract, Res. #892-84, Seddlemeyer Sanitary Sewer

DEPARTMENT REQUESTING ORDINANCE Board of Public Works S-84-11-16

SYNOPSIS OF ORDINANCE The Contract for Resolution #892-84, Seddlemeyer Sanitary Sewer is for the installation of an 8" sewer on Seddlemeyer Avenue from Gary Street to Old Decatur Road. Earth Construction, Inc., is the Contractor.

PRIOR APPROVAL WAS RECEIVED OCT. 25, 1984

EFFECT OF PASSAGE Improved sewer conditions in above area.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $7,973.00

ASSIGNED TO COMMITTEE